

<u>CERTIFICATE OF EXPRESS MAILING</u>	
EXPRESS MAIL Mailing Label Number: <u>EL 753209165 US</u>	Date of Deposit: <u>February 24, 2004</u>
I hereby certify that this correspondence, fee, and all accompanying papers, if any, are being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
<u>Francene Sawyer</u> Francene Sawyer	<u>February 24, 2004</u> Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/844,290
Applicant : Werner Schöbller, Christian Hentschel and Vivianne Tack
Filed : April 27, 2001
Title : ANTI-PETASIN ANTIBODIES, METHODS FOR THE PRODUCTION THEREOF AND THEIR USE
TC/A.U. : TBA
Examiner : TBA
Docket No. : (Old) 0107-031; (New) 103888-522NP

RECEIVED
MAR 03 2004
OFFICE OF PETITIONS

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL STATEMENT ESTABLISHING UNINTENTIONAL DELAY

Sir or Madam:

Applicants hereby petition the Commissioner under 37 § C.F.R. 1.137(b) to revive the above-identified application which was unintentionally abandoned on December 9, 2003 for failure to properly respond to the Notice of Missing Parts mailed on September 27, 2001. The Notice of Abandonment dated December 9, 2003 indicates that there was no reply to the September 27, 2001 Notice of Missing Parts. However, as will be shown, a complete reply was timely submitted.

We submit that the application should be revived because of the following evidence:

1. A Notice to File Missing Parts of Nonprovisional Application was mailed on September 27, 2001 requesting the basic filing fee, additional claim fees, the oath or declaration along with late filing surcharge and an abstract.

2. On October 9, 2001 a submission of missing parts, declaration, assignment with cover sheet, check for the payment of \$1120 to cover fees and a copy of the Notice to File Missing Parts were submitted. This was received by the USPTO within 3 days as evidenced by the return postcard. (See Exhibit A)

3. A Notice of Incomplete Reply was mailed by the USPTO on November 13, 2001 indicating that no abstract was submitted and acknowledging receipt of the October 9, 2001 submission to the Notice of Missing Parts. (See Exhibit B)

4. The abstract for the application with a copy of the Notice of Incomplete Reply was submitted separately on November 15, 2001, which under normal circumstances, would have been received by the USPTO well within the shortened two month statutory deadline set forth in the Notice of Missing Parts. (See Exhibit C)

Also, we note that the stamp on the return postcard is dated January 14, 2002, which indicates a delay of several weeks. We believe that the delay was caused by the disruption in mail delivery due to the anthrax scare in the Washington, D.C. vicinity post September 11, 2001, evidenced, for example, by the yellowed discoloration and frailty of assignment documents returned to us from the USPTO during this time.

Accordingly, we believe that a complete reply to the Notice of Missing Parts was timely submitted, but that delays in mail processing may have contributed to the unintentional abandonment, and therefore this application should be revived. To ensure that the USPTO received all required documents, we are resubmitting the abstract in response to the Notice of Incomplete Reply. Furthermore, Applicants respectfully submit that the petition fee should be waived because of the mail processing delay.

The Commissioner is authorized to charge any required fees, including any extension and/or other fees, or credit any overpayment, to Goodwin Procter LLP Deposit Account No. 06-0923.

Date: February 24, 2004

Respectfully submitted for Applicant,



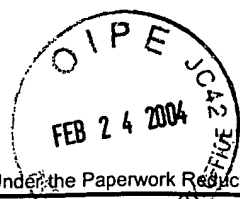
Ann-Marie Koss (Reg. No. 54,237)

GOODWIN PROCTER LLP

599 Lexington Avenue

New York, NY 10022

(212) 459-7434



2-26-04

\$ DAC #9

PTO/SB/64 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
(Old) 0107-031
(New) 0651-0031
RECEIVED

First named inventor: Werner Schößler, et al.

MAR 03 2004

Application No.: 09/844,290

Art Unit: TBA

OFFICE OF PETITIONS

Filed: April 27, 2001

Examiner: TBA

Title: Anti-Petsasin Antibodies, Methods for the Production Thereof and Their Use

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1330.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of Supplemental Submission of Missing Parts (identify type of reply):

☒ has been filed previously on November 15, 2001.

☒ is enclosed herewith.

B. The issue fee of \$ _____

03/01/2004 HVUDNG1 00000076 060923 09844290

☐ has been paid previously on 01 FC:1453 1330.00 DA

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

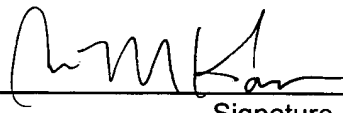
- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

February 24, 2004

Date



Signature

Telephone

Number: (212) 459-7434

Ann-Marie Koss

Typed or printed name

Goodwin Procter LLP

Address

599 Lexington Ave, New York, NY 10022

Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

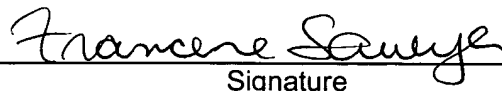
I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as ~~Express first-class~~ mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

February 24, 2004

Date



Signature

Francene Sawyer

Type or printed name of person signing certificate



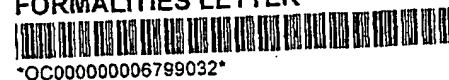
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/844,290	04/27/2001	Werner Schobler	0107-031

CONFIRMATION NO. 1048

FORMALITIES LETTER



OC000000006799032

23622
GABRIEL P. KATONA
GOODWIN PROCTER L.L.P.
599 LEXINGTON AVENUE
40TH FLOOR
NEW YORK, NY 10022

Date Mailed: 09/27/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 710 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$134.
 - \$54 for 3 total claims over 20.
 - \$80 for 1 independent claims over 3.
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 974.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- An abstract was not provided for this application. An abstract of the technical disclosure is required under 37 CFR 1.72(b).

A copy of this notice MUST be returned with the reply.



Customer Service Center

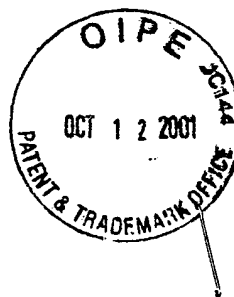
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

Re: 0107-031

The following are mailed on 10/9/01:

1. Submission of missing parts
2. Declaration
3. Assignment with cover sheet
4. Check of \$1120
5. Copy of notice to file ...



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Werner Schöblier et al.

Serial No. 09/844,290

Filed on April 27, 2001

For Anti-Petasin Antibodies, etc.

Attorney's Docket 0107-031

Commissioner of Patents
Washington DC 20231

Sir:

SUBMISSION OF MISSING PARTS

Enclosed herewith are the following:

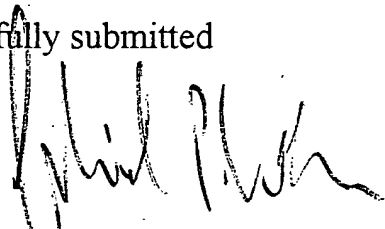
- (i) declaration
- (ii) assignment with cover sheet;
- (iii) check in the amount of \$ \$1,120 (\$740 filing fee; \$36 for 2 extra claims; \$84 for 1 extra independent claim; \$40 for recording assignment; and \$130 late surcharge, and \$130 foreign language application fee).

The additional claim fees were calculated on the basis of the revised claims filed on May 29, 2001.

Goodwin Procter L.L.P.
599 Lexington Avenue, 40th floor
New York 10022

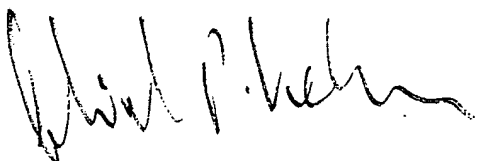
(212)813-8835

Respectfully submitted



Gabriel P. Katona, their attorney

It is hereby certified that this is being mailed on October 9, as addressed above.



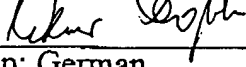
DECLARATION WITH POWERAttorney's Docket No.: 0107-031

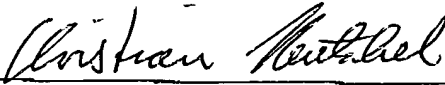
I, the undersigned inventor hereby declare that my residence, post office address, and my citizenship are correctly stated below following my signature; that to the best of my knowledge I am the first, original and joint inventor of the invention described and claimed in the application for United States Letters Patent, having the title ANTI-PETASIN ANTIBODIES, METHODS FOR THE PRODUCTION THEREOF, AND THEIR USE, the description of which was filed in the United States Patent and Trademark Office on April 27, 2001, and I state that I reviewed and understand the contents of the specification and claims and recognize my obligation pursuant to 37 C.F.R. 1.56 to disclose all information that is material to the patentability of this patent application. I hereby state that I authorized the filing of this application.

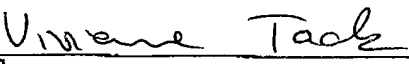
I hereby claim the benefit of priority under 35 U.S.C. 120 of International Application No. PCT/DE99/03525 filed on November 1, 1999, and under 35 U.S.C. 120 of German patent applications No. 198 50 011.4, filed on October 30, 1998, and No. 198 56 777.4 filed on November 30, 1998. Certified copies of the two latter applications will be filed in due course.

I hereby appoint Gabriel P. Katona, Reg. No. 20,829; Sharon Blinkoff, Reg. No. 28,284; Henry Coleman, Reg. No. 32,559; and Neil R. Sudol, Reg. No. 31,669 to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith, and I hereby request that all correspondence herein be directed to Gabriel P. Katona L.L.P., 708 Third Avenue, 14th floor, New York 10017; Telephone (212)370-4000; fax (212)370-7336.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Inventor: Werner Schöblier; Signature 
Residence: Schwanebeck, Germany; Citizenship: German
Postal address: Rathenaustraße 12, 16341 Schwanebeck, Germany

Inventor: Christian Hentschel; Signature 
Residence: Birkholz, Germany; Citizenship: German
Postal address: Dorfstraße 6b, 16356 Birkholz, Germany

Inventor: Vivianne Tack; Signature 
Residence: ~~Berlin, Germany~~; Citizenship: German
Postal address: ~~Alt Moabit 556, 10555 Berlin, Germany~~

Residence: Frankfurt am Main, Germany
Postal address: Auf der Schloßhecke 13, 60431 Frankfurt am Main, Germany

ASSIGNMENT BRANCH
Hon. Commissioner of Patents and Trademarks
Washington, DC 20231

Sir: Please record the attached original assignment, having the following particulars:

Attorney Docket: 0107-031

Application No.: 09/844,290

Filed: April 27, 2001

Title: Anti-Petasin Antibodies, etc.

Assignor(s): Werner Schöblier, Christian Hentschel, and Viviane Tack

Assignee: Max Zellr & Söhne AG

Address of assignee: Seeblickstraße 4, 8590 Romanhorn, Switzerland

Nature of enclosed document: Patent assignment

Total number of applications involved: 1

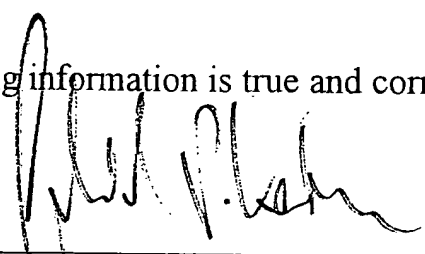
Amount of fee enclosed: \$40.00

Date of execution of enclosure: April 27, 2001

All correspondence, including the recorded document should be sent to Gabriel P. Katona,
Goodwin Procter L.L.P., 590 Lexington Avenue, 40th floor, New York 10022.

To the best of my knowledge and belief, the foregoing information is true and correct.

Date: October 9, 2001



Name: Gabriel P. Katona
Reg. No.: 20,829

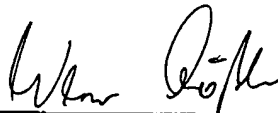
ASSIGNMENT

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the undersigned inventors (ASSIGNORS) hereby sell and assign to Max Zeller & Söhne AG, a Swiss corporation having an office at Seeblickstraße 4, 8590 Romanhorn, Switzerland (ASSIGNEE), its successors, legal representatives and assigns, the entire, right, title and interest in, to and under the invention entitled ANTI-PETASIN ANTIBODIES, METHODS FOR THE PRODUCTION THEREOF, AND THEIR USE, and filed in the United States Patent and Trademark Office on April 27, 2001, and the said application and all divisions, renewals and continuations thereof, and all patents of the United States which may be granted thereon and all reissues and extensions thereof, and all applications for patent which may hereafter be filed for said invention in any country or countries foreign to the United States, and all patents which may be granted for said invention in any country or countries foreign to the United States and all extensions, renewals and reissues thereof, together with any and all rights of priority relating to said invention, said applications and said patents; and the ASSIGNORS hereby authorizes and requests the Commissioner of Patents and Trademarks of the United States, and any official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all patents for said invention to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

The ASSIGNORS have full right to convey the entire interest herein assigned, and have not made, and will not make, any agreement in conflict herewith.

The ASSIGNORS further agree to communicate to the ASSIGNEE, its successors, legal representatives and assigns, any facts known to the ASSIGNORS respecting said invention, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said invention in all countries.


April 27, 2001


Werner Schöblier

April 27, 2001


Christian Hentschel

April 27, 2001


Vivianne Tack

GABRIEL P KATONA


CMA Cash Management Account 0852

DATE October 9, 2001 25-80/440

PAY
TO THE
ORDER OF

Commissioner of Patents & Trademarks

\$ 1,120⁰⁰/₁₀₀

ONE THOUSAND ONE HUNDRED TWENTY⁰⁰/₁₀₀ DOLLARS  Security features included. Details on back.

 **Merrill Lynch**

BANK ONE BANK ONE, COLUMBUS, OH
Columbus, Ohio 43271

Gabriel P. Katona MP

MEMO

⑈000852⑈ ⑆044000804⑆ 041121156575⑈



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/844,290	04/27/2001	Werner Schobler	0107-031

CONFIRMATION NO. 1048

FORMALITIES LETTER



OC000000007053383

off date 11/27 Werner Schobler

Date Mailed: 11/13/2001

23622
GABRIEL P. KATONA
GOODWIN PROCTER L.L.P.
599 LEXINGTON AVENUE
40TH FLOOR
NEW YORK, NY 10022

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 10/12/2001 to the Notice to File Missing Parts (Notice) mailed 09/27/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- An abstract was not provided for this application. An abstract of the technical disclosure is required under 37 CFR 1.72(b).

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

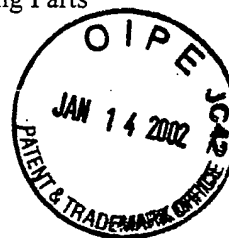
PART 1 - ATTORNEY/APPLICANT COPY

✓

Attorney's Docket: 0107-031
Serial Number: 09/844-290
Date Mailed: November 15, 2001

RECEIPT IS HEREBY ACKNOWLEDGED:

1) Supplemental Submission of Missing Parts



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Werner Schöblier et al.

Serial No. 09/844,290

Filed on April 27, 2001

For Anti-Petasin Antibodies, etc.

Attorney's Docket 0107-031

Commissioner of Patents
Washington DC 20231

Sir:

SUPPLEMENTAL SUBMISSION OF MISSING PARTS\

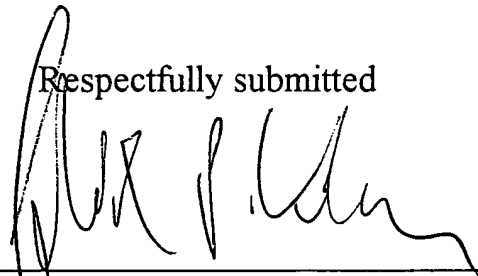
Hereinbelow is an abstract for the above-identified application,
together with a copy of the Notice of Incomplete Application:

- - The invention relates to an anti-petasin antibody for detecting petasin or petasin protein conjugates in physiological fluids, the antibody being free of cross reactivity to derivatives, structural analogs or metabolites of petasin, method for producing the antibody, and a process for detecting petasin or petasin protein conjugates in physiological fluids.--

Goodwin Procter L.L.P.
599 Lexington Avenue, 40th floor
New York 10022

(212)813-8835

Respectfully submitted



Gabriel P. Katona, their attorney

It is hereby certified that this is being mailed on November 15, 2001.

Francene Sawyer

Abstract

The invention relates to an anti-petasin antibody for detecting petasin or petasin protein conjugates in physiological fluids, the antibody being free of cross reactivity to derivatives, structural analogs or metabolites of petasin, method for producing the antibody, and a process for detecting petasin or petasin protein conjugates in physiological fluids.